

IN THE SENATE

SENATE BILL NO. 1079

BY LOCAL GOVERNMENT AND TAXATION COMMITTEE

AN ACT

RELATING TO EXTENSION OF TIME UNDER THE STATE INCOME TAX ACT; AMENDING SECTION 63-3033, IDAHO CODE, TO PROVIDE FOR AN EXTENSION OF TIME UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTION 63-3072, IDAHO CODE, TO PROVIDE AN EXTENSION OF TIME UNDER CERTAIN CIRCUMSTANCES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-3033, Idaho Code, be, and the same is hereby amended to read as follows:

63-3033. EXTENSION OF TIME. (a) Taxpayers shall have an automatic extension of time for filing any return, declaration, statement or other document required by this chapter for a period of six (6) months if on or before the unextended due date the taxpayer has paid at least eighty percent (80%) of the total tax due on the income tax return when it is filed, or the total tax due on the income tax return for the prior year if a return was filed for the prior year.

(b) If, on the unextended due date, the payment required to meet the provisions of subsection (a) of this section, after consideration of any previous credits or payments applicable to the return, is fifty dollars (\$50.00) or less, such payment shall not be required in order to qualify for the extension. However, interest shall accrue as provided in subsection (f) of this section. Payment of any balance of tax is due on the earlier of the extended due date or the date the return is filed.

(c) Taxpayers residing outside any of the United States and Puerto Rico (including persons in military or naval service) shall have an automatic extension of time within which to file income tax returns with this state for a period which shall expire on the fifteenth day of the sixth month following the close of their taxable year.

(d) Individuals who are entitled to extensions for filing federal income tax returns as a result of the application of the provisions of sections 911 and 7508 of the Internal Revenue Code, shall be entitled to extensions of time for the same period for filing income tax returns with the state of Idaho subject to the requirements imposed in implementation of the indicated sections.

(e) Any taxpayer entitled to an extension under subsection (c) or (d) of this section shall attach a statement to his return claiming his right to the extension.

(f) If the amount of payment made under subsection (a) of this section is less than eighty percent (80%) of the total tax due under the provisions of this chapter and is less than the amount of the total tax due on the income tax return for the prior year, except as permitted by subsection (b) of this

1 section, a penalty may be applied to the total of the balance due unless rea-
 2 sonable cause can be established. The penalty shall be:

3 (1) If the taxes for the taxable year are paid on or before the extended
 4 due date, two percent (2%) per month from the original due date to the
 5 date of payment.

6 (2) If the taxes for the taxable year are not paid on or before the
 7 extended due date, the penalty provided in section 63-3046(c), Idaho
 8 Code, from the original due date.

9 (g) In all cases of an extension of time in which to file any return,
 10 except for those related to section 7508 of the Internal Revenue Code, inter-
 11 est shall be paid on any tax due from the original due date to date of payment
 12 at the rate provided in section 63-3045, Idaho Code. For an individual en-
 13 titled to an extension of time allowed by subsection (d) of this section and
 14 section 7508 of the Internal Revenue Code, interest shall be paid on any tax
 15 due from the extended due date allowed in subsection (d) of this section to
 16 the date of payment.

17 SECTION 2. That Section 63-3072, Idaho Code, be, and the same is hereby
 18 amended to read as follows:

19 63-3072. CREDITS AND REFUNDS. (a) Subject to the provisions of subsec-
 20 tions (b), (c) and (h) of this section, where there has been an overpayment
 21 of the tax imposed by the provisions of this chapter, the amount of such over-
 22 payment shall be credited against any tax administered by the state tax com-
 23 mission which tax is then due from the taxpayer, and any balance of such ex-
 24 cess shall be refunded to the taxpayer.

25 (b) Except in regard to amounts withheld as provided in section
 26 63-3035, 63-3035A or 63-3036, Idaho Code, or amounts paid as estimated pay-
 27 ments under section 63-3036A, Idaho Code, a claim for credit or refund of
 28 tax, penalties, or interest paid shall be made within the later of three (3)
 29 years of the due date of the return, without regard to extensions, or three
 30 (3) years from the date the return was filed. However, with regard to remit-
 31 tances received with an extension of time to file, or a tentative return, a
 32 claim for credit or refund of such remittances shall be made within three (3)
 33 years from the due date of the return without regard to extensions.

34 (c) With regard to amounts withheld as provided in section 63-3035,
 35 63-3035A or 63-3036, Idaho Code, or amounts paid as estimated payments un-
 36 der section 63-3036A, Idaho Code, a claim for credit or refund shall be made
 37 within three (3) years from the due date of the return, without regard to
 38 extensions, for the taxable year in respect to which the tax was withheld or
 39 paid. However, with regard to an individual who is entitled to an extension
 40 of time as provided in section 7508 of the Internal Revenue Code, the three
 41 (3) year period provided in this subsection for claiming a credit or refund
 42 shall be extended by the number of days disregarded under section 7508 of the
 43 Internal Revenue Code.

44 (d) Notwithstanding any other provisions of this section, when Idaho
 45 taxable income and/or tax credits for any taxable year have been adjusted
 46 as a result of a final federal determination, the period of limitations for
 47 claiming a refund or credit of tax, penalties, or interest shall be reopened
 48 and shall not expire until the later of one (1) year from the date of deliv-
 49 ery of the final federal determination to the taxpayer by the internal rev-

1 enue service, three (3) years from the due date of the return, without regard
 2 to extensions, or three (3) years from the date the return was filed. For
 3 purposes of this subsection, the term "final federal determination" shall
 4 mean the final resolution of all issues which were adjusted by the inter-
 5 nal revenue service. When the final federal determination is submitted, the
 6 taxpayer shall also submit copies of all schedules and written explanations
 7 provided by the internal revenue service. Upon the expiration of the period
 8 of limitations as provided in subsections (b) and (h) of this section, only
 9 those specific items of income, deductions, gains, losses or credits which
 10 were adjusted in the final federal determination shall be subject to adjust-
 11 ment for purposes of recomputing Idaho income, deductions, gains, losses,
 12 credits, and the effect of such adjustments on Idaho allocations and appor-
 13 tionments.

14 (e) If a claim for credit or refund relates to an overpayment attribut-
 15 able to a net operating loss carryback or a capital loss carryback, in lieu of
 16 the period of limitations prescribed in subsection (b) of this section, the
 17 period shall be that period which ends with the expiration of the fifteenth
 18 day of the fortieth month following the end of the taxable year of the net op-
 19 erating loss or capital loss which results in such carryback.

20 (f) If an adjustment, which was made within the period of limitations
 21 as provided in this section, affects the amount of tax credit, net operating
 22 loss, or capital loss, claimed in a taxable year other than the tax year in
 23 which the adjustment is made, then adjustments to the credit, net operating
 24 loss, or capital loss, claimed in such other tax year may be made and a claim
 25 for credit or refund of tax, penalties or interest may be made even though
 26 such claim would otherwise be barred under the provisions of this section.

27 (g) In the case of a duplicate return filed under section 63-217(1) (b),
 28 Idaho Code, the limitations under this section shall be the later of one (1)
 29 year from the filing of the duplicate return or the date otherwise applicable
 30 under this section.

31 (h) Prior to the expiration of the time prescribed in this section for
 32 credit or refund of any tax imposed by the provisions of this chapter, both
 33 the state tax commission or its delegate or deputy and the taxpayer may con-
 34 sent in writing to extend such period of time. The period so agreed upon may
 35 be extended by subsequent agreements in writing made before the expiration
 36 of the period previously agreed upon. When a pass-through entity extends the
 37 period of limitations in accordance with the provisions of this subsection
 38 the period of limitations for the other taxpayers is automatically extended
 39 for the same period for the purpose of claiming a credit or refund of tax,
 40 penalties or interest by the other taxpayers reflecting the pass-through en-
 41 tity adjustments.

42 (i) The expiration of the period of limitations as provided in this sec-
 43 tion shall be suspended for the time period between the issuance by the state
 44 tax commission of a notice under either section 63-3045 or 63-3065, Idaho
 45 Code, and the final resolution of any proceeding resulting from the notice.

46 (j) Appeal of a state tax commission decision denying in whole or in
 47 part a claim for credit or refund shall be made in accordance with and within
 48 the time limits prescribed in section 63-3049, Idaho Code.

49 (k) For purposes of this section, "return" includes a notice of defi-
 50 ciency determination issued by the state tax commission when no return was

1 filed by the taxpayer. Such a return is deemed filed on the date the taxes de-
2 termined by the state tax commission are assessed.

3 SECTION 3. An emergency existing therefor, which emergency is hereby
4 declared to exist, this act shall be in full force and effect on and after its
5 passage and approval, and retroactively to January 1, 2011.